

COMMISSIONERS PROCEEDINGS
NOVEMBER 16, 2005
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Boldt, Stuart, and Morris, Chair, present.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

PUBLIC HEARING: ANNUAL REVIEW/DOCKETS

Held a public hearing to consider Annual Review Docket items. Continued from November 15, 2005.

Commissioner Morris announced some alterations to the schedule listed on the hearing agenda to begin with the Comprehensive Plan Text and the Arterial Atlas, proceeding then to the original order.

CPZ2005-00078 - Amend the Twenty Year Growth Comprehensive Plan Text: The Comprehensive Plan text document was last revised September 2004. Since that update, a number of inconsistencies have been identified in the document. This amendment serves as a post adoption correction to the comprehensive plan text. A file containing the adopting ordinances and text document can be viewed in the Long Range Planning Division. The Planning Commission recommended **APPROVAL** by a 6 to 0 vote. The Planning Commission recommendations **did not** make the deletions set out at 1.2, 1.3, correcting Table 1.2, **not** making the deletions set out in 1.4, 1.1.15 and 3.2.13 in the staff report.

Oliver Orjiako, Department of Community Development, stated some changes were made to the comprehensive plan text and these changes were being made to correct typos. It was reviewed by the Planning Commission (PC) who recommended that some of the changes be put on hold because the county is currently going through the Comprehensive Plan process. He referenced supporting documents, item #70078, in the Commissioner's notebooks (book #3). The PC made the following recommendations: not to make deletions set out in 1.2 - utilizing a market factor for residential, commercial, and industrial; and not to make deletions set out in 1.3 - policy that calls for retention of 75% percent local "trigger."

Morris acknowledged that they would be changing the market factor and deleting the triggers.

Orjiako said the Planning Commission made the recommendation not to delete at this point as it is not consistent with county code. He said the PC made the recommendation that we keep this policy in the plan text until changes are made in the code so that both items are consistent. He also said that due to the current process they are going through with the BP (Business Park) to

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ML issue, the recommendation was that they should wait for the resolution on that issue before making any changes to the plan text.

Stuart asked for more details of the Planning Commission recommendations, as it appears there were many requests to not make any changes. He wanted to know what changes were left.

Orjiako said very few changes are left and he referenced the documents in the Commissioner's notebooks, which show the typos underlined and struck out. He further explained. The Planning Commission was recommending approval by a 6 to 0 vote.

Stuart wanted to know if there would be a danger in not making it consistent with the September 2004 Plan.

Orjiako responded that if they made the change it would complicate the business park matter.

Morris recommended that they continue this discussion on December 6, 2005 so they might spend more time on it.

There being no public comment, **MOVED** by Boldt to continue Docket Item CPZ2005-00078 to December 6, 2005 at 10:00 a.m., in the Commissioners' Hearing Room, Sixth Floor, Public Service Center. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 238)

CPZ2005-00097 - Docket (NE 65th Street/Kerr Road): A proposal to amend the Clark County Arterial Plan Map. The Planning Commission recommended **DENIAL** by a 5 to 1 vote. Continued from November 15, 2005.

Mike Mabrey, Department of Community Development, explained that the proposed arterial atlas amendment would designate NE 65th Street and the existing portion of Kerr Road as a C-2 Collector and it further proposes an extension of a connecting road between those existing segments. So the new portion of the road would extend through NE 121st Avenue to NE 131st Avenue, where there is currently a substantial amount of vacant commercial zoned property.

Morris said it looked like they were taking out a few of those parcels.

Mabrey stated that was part of the concern of the Planning Commission. He said they could discuss how it would affect the parcels and what some of the solutions are. He clarified that a C-2 collector is two lanes with parking on either side, 38-feet of pavement and 60-feet of right-of-way. He said the existing built portion of 65th Street, from NE 117th to NE 121st, is built to the collector standard and the existing portion of Kerr Road, from NE 131st to NE 134th, has 60-feet of right-of-way and none of it is built to urban standard. There is currently very little

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sidewalk or curb section. He said the future extension of Kerr Road from NE 135th to 137th Avenue would require right-of-way acquisition and a new alignment.

Morris asked if they were taking a large portion out of the three parcels. She noted that there isn't much of a way to avoid bisecting parcels unless you go to the north.

Mabrey noted that there is very poor circulation in this area, as there are no east/west roadways north of Fourth Plain that connect. He also stated that there is a lot of commercial property that is likely to develop or redevelop in the near future. He explained that Fourth Plain is currently a state highway and is transitioning to become a principal arterial. He said WSDOT and the City of Vancouver have expressed support for a connecting road that would provide alternative access. *Mabrey* said the PC had concerns related to circulation problems in the area, as well as concerns with the private property impacts that a straight line alignment would have on some of the same properties they have talked about. He said they could show a curve line, but then those properties would be stuck, and eventually do an atlas amendment to justify changing from that. He said he thought some of the Planning Commission members didn't feel that staff would exercise that level of flexibility, and at least one individual expressed a concern that some of the potential alignments curving around following property lines would be difficult with the standard center line radius requirements for a collector. He pointed out that there was a road modification done on 65th Street on the west side of 117th Avenue that allowed for a significant modification of the center line curvature. Also, there was concern that this was an existing public problem that they were asking private property owners to pay for or solve.

Morris agreed.

Mabrey said there was some discussion about shifting the line into the BPA easement, but stated that the public is going to pay for the portion of it. He pointed out that part of the genesis of the project was that WSDOT did a safety improvement at 124th and Fourth Plain where they limited left turn movements and as part of phase 2 in the next legislative cycle, the legislator provided \$400,000 to help improve circulation that was restricted by that safety improvement. That money has been put in escrow for the county to expend in solving circulation problems in this area. If it's not used in four years it's reverted back to the state.

John Strohecker, Trust Officer for Cowlitz Bank, PO Box 1518, Longview, Washington, 98632, stated that he was representing the owner of 6516 NE 124th, Vancouver, Washington, 98682, Tax Parcel #158380000. He stated that they are opposed to this because the property would be bisected by the proposed line and the proposed line permanently taints the property, whether or not that particular roadway is built. Also, developers at some point in time would fund or build the particular roadway through their property, which leaves the timeline very open. Additionally, in bisecting it, they would be left with two very unusable and un-saleable portions of property, which would have a negative impact on his client's retirement income.

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Morris said she wouldn't have drawn the line there either. She said she would have drawn it to the north of the three parcels and run the road down the property line, but getting to the north is a little difficult because you would have to make a sharp north curve which would take a hunk out of one parcel. However, just because the line is designated in a particular place doesn't mean that is where the alignment has to go.

Strohecker reiterated that the proposed line is going to affect possible sales of the property. He affirmed their opposition. He said that if staff wants to proceed with this, then he would like the property to be bought from trust.

Stuart said Mr. Strohecker raised a great point, as the arterial atlas is a pretty cut and dry document. He said that if he was a purchaser and looking at the arterial atlas he wouldn't know the possible flexibility of it and would only see the parcel was bisected by a future roadway, which would make him stay away from it.

Mabrey responded that they are holding \$400,000, which needs to be spent within four years. He said they would likely buy the right-of-way and identify where it goes between 121st and 124th.

Stuart asked if there were other areas within the corridor that they could spend the \$400,000 on.

Mabrey said the project definition is for construction of the extension of NE 65th Street from NE 121st Avenue to NE 124th Avenue, so the money would have to be expended in that area.

Morris wanted to know how many acres are in the eastern parcel.

[Brief discussion ensued.]

Boldt wanted to know if staff was appealing the decision.

Mabrey said this was a docket item and doesn't require an appeal.

Martin Faveluke, stated that he owns the property from 124th to 131st, marked on the overhead map as R-18, and is very affected by this. He suggested that what they need most in that area is a way to get from 124th to 121st, along the north side of the Bonneville Power Administration. He said they don't necessarily need the rest of it as much as they do that short section. Mr. Faveluke said there's a 100-foot strip he thought they could put a road on for very little money.

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Stuart he said the BPA is usually reluctant, or just doesn't allow roadways within their right-of-way. He asked Mr. Mabrey if that was an option.

Mabrey said that it's not entirely out of the question, but that generally the BPA would prefer that it be one that crosses the easement perpendicularly rather than follow within.

Stuart asked if that would be in the parameter of the \$400,000.

Mabrey said it serves to connect 121st to 124th.

Faveluke said that's what's needed. He said the PC's vote should be upheld.

Doug Kolberg, Contract Purchaser of the parcel, stated that he's not in favor of the road. He said it's a lot of road to build and he wouldn't be able to afford to develop. He added that there's not a lot of buildable land on the property.

Meridee Pabst, Miller Nash, 500 East Broadway, Vancouver, representative for Mr. Kolberg and Winco, stated that Winco owns three tax parcels and they're concerned about where the road is shown because it appears to bisect their property. Ms. Pabst said they object to the atlas amendment and also disagree that a proposed plan change is needed. She further explained. She said that both properties have access to Fourth Plain now and they don't agree that development of their parcels necessitates the road. She echoed Mr. Kolberg's comments that any project on his site couldn't afford such a road improvement. She said their preliminary traffic count projected about 12 pm peak hour trips from the likely use of the property, which would be barely enough to require a traffic study.

Morris commented that frontage road improvements are not tied to pm peak hour traffic, but are tied to the frontage and the classification of the road on the frontage. It's not a direct proportionality issue.

Pabst said that any code provision has to be enforced in light of the constitutional requirements.

[Brief discussion followed.]

Morris said they draw arterial atlas for the purpose of indicating where they intend roads to go. She said for her this wasn't the place to argue rough proportionality because that was an issue for further into the discussion, not the arterial atlas.

Pabst said they understand that rough proportionality is done at the project level, but when they previously testified on this matter they clarified that the purpose of their argument was to

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illustrate the practicality of enforcing the arterial atlas plan when those issues are tested at the project level.

[Public testimony closed]

Stuart said he would follow the Planning Commission's recommendation to deny this, and he added that there are other alternatives that can be looked at. He agreed that roads are needed in the area and in that corridor to act as overflow for Fourth Plain on the east/west; however, with possible damage to the property owners in the area, the alignment would be premature.

Morris agreed, but pointed out that just because the current parcel owner believes the intended use for their parcel is going to be unduly burdened by disproportionate costs, land changes hands and proposed uses all the time and the arterial atlas is for long range planning purposes. *Morris* stated that she was happy to make the vote unanimous, but added that they do need to do circulation plans. She said if counties had money to build roads they would, but the hard fact is that the way they build their roads is that they expect development to pay its share.

There being no further public comment, **MOVED** by *Boldt* to uphold the Planning Commission's recommendation to deny Docket Item CPZ2005-00097, NE 65th Street/Kerr Road. Commissioners *Morris*, *Boldt*, and *Stuart* voted aye. Motion carried. (See Tape 238)

CPZ2005-00062 – Docket (Hockinson Oaks) The property owner is seeking to expand the Hockinson Rural Center Boundary by approximately 18.5 acres. An expansion would include the re-designation and rezone of parcels 204270-000 and 204231-000 from Agriculture (AG-20) and Rural Center Residential (RC2.5) to Rural Center (RC-1); and parcels 194770-000 and 194790-000 from Rural District (R-5) to Rural Center Residential (RC-1) located at NE 159th Street and NE 170th Ave. The Planning Commission made an alternative recommendation to deny the expansion but **APPROVE** a re-designation of the remnant agricultural zoned portions of parcels 204270-000 and 204231-000 as a Rural -5 by a 5 to 1 vote.

Orjiako stated that this was a request to both expand the Hockinson rural boundary and also to change the zoning of the property to 2½ acre lots. Mr. *Orjiako* explained that this request went to the PC along with substantial staff background and findings. He said that staff made a compromise to change the AG to rural 5, with the provision that the applicant can come close to that in addition to the two pieces to the west and get some utility. He said the Planning Commission was recommending approval for staff's compromise by a 5 to 1 vote.

Boldt asked if it the rural center would have been extended, could it have been hooked up to sewer.

Orjiako said yes.

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Boldt asked if Hazel Dell Sewer District had testified.

Orjiako said no.

Earl Jackson, Jackson, Jackson & Kertz, PO Box 340, Battle Ground, stated that he was the representative for the applicants. He referenced a letter submitted from Mr. Schumacher, who indicates that the strip between Mud Creek and the R-5 zoning line is not usable for agricultural purposes. Mr. Jackson then submitted a summary of their actual request, which was for R-1 lots, given the small buildable area of 8.7 acres on the property. He referenced the sketch of the survey that showed the environmental constraints.

Morris asked Mr. Jackson if he was speaking in support of the Planning Commission.

Jackson said no, he was speaking in support of the applicant's request. He said they do support the PC's recommendation to the extent that it does change the agricultural use. Beyond that, they feel it should be RC-1 to allow the placement of the eight lots in the actual area. He further explained. He stated that there has been a substantial change in circumstances unlike when it first came through in 2000. In 2000, the PC and staff had both recommended approval of the extension of the rural center zone to the west line of the property. At that the time, the Board of Commissioners had said that there was not a change of circumstances and was not a mapping error, and they reversed the PC's decision. He said they now have a change of circumstances and it's no longer used as a dairy farm. Jackson said the request does comply with the criteria of the comprehensive map change. He said that 90% of the property owners inside the rural center have signed the petition for approval. He said the idea of the rural center is to have small lot development in a rural center area. Putting it in Mud Creek puts it in the middle of a wetlands area. Also, according to the state statute, part of the purpose of the rural center is the conversion of vacant land to small lot residential, which is what they are trying to accomplish here.

Morris wanted to know how many additional parcels there were.

Jackson said it is 8.7 acres of available land. He said that with RC-1, they were looking at eight potential parcels.

Stuart asked Mr. Jackson to point out on the map the actual parcel lines. He wanted to know if there were two parcels and they were just split zoning.

Unidentified man responded that there are four and they have split zoning. He said there is 40 acres in that particular piece.

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Jackson said the developable line was west of the setback line from the creek.

Morris asked how many parcels there would be altogether.

Jackson said the request is to add 18 acres to the rural center and that the parcelization be consistent RC-1 to the edge.

Morris asked if out of the 40 total acres there were only 8 developable acres. Was that staff's understanding?

Orjiako said they estimated that it could be close to 18.5 acres.

Wilbert Pederson said that's how much is on the west side of the creek. He said there's 22 acres on the east.

Morris asked if he was asking to change the 22 acres from RC-2.5 to RC-1.

Pederson said it probably didn't matter if it stayed as it is currently zoned, but they were planning on putting it into a trust and donating it in order to gain a reasonable tax credit. He further explained. He added that there wouldn't be any building on the east side, but for the west side, there were two more ponds that were supposed to go in, but haven't yet.

Boldt wanted to know if Mr. Pederson got the eight parcels, if they would be on septic or sewer.

Pederson responded that above the creek he felt it had to be sewer, which is why he wanted it to be brought into the rural center. He further explained. He said they wanted to put the management of the wetlands into one home. If they did the eight 5's, they'd have eight different owners who had a say over the wetland and Pederson didn't think you could get 90% agreement on how that's managed. For example, hunting and trapping is legal in wetlands and some families would be okay with that and some would not. He said they were actually allowing some goose hunting in there now and he's had half a dozen complaints.

Morris said they allow firearm use outside of urban growth boundaries, but it's prohibited inside urban growth boundaries. She asked if it was prohibited inside rural center boundaries.

Chris Horne, Prosecuting Attorney's office, said the board adopted a "no shooting" map and the boundaries are shown in the county code. He said he couldn't tell whether or not that parcel was in or out, but there is a legal description for the boundaries.

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Darlene Warner, 17200 NE 59th Street, Brush Prairie, pointed out her property on the overhead map, two 3-acre parcels, and stated that she has lived there for 27 years. She said the creek would periodically flood and they put the lakes in. She stated that she liked the lakes and the wildlife, but then they allow the hunters to come in. She said the ponds referenced by Mr. Pederson have made it worse because they get backed up onto her property. Ms. Warner wanted to know how many houses would be built and on what size of property, if the request is approved.

Morris responded that if the zone were to be changed to CR-1, then one house can be built on 1 acre. So if they have 8 acres, they can build 8 houses.

Warner said that was acceptable as long as they know where all the water is going to go. She stated that it is swamp land and people need to be made aware of how wet the property is out there. Warner also commented on the sewer line, which is a 6-inch line for the gray water. Each of those houses would need to have the appropriate septic devices that grind up the sewage before it goes into the main line. She said folks need to be made aware of that also.

Stuart wanted to know who's in charge of monitoring the mitigation project.

Horne said it could be a couple of different agencies. He said a wetland permit would have been required and issued through the county; the covenant would have been provided by the property owner. If there are offsite impacts, it can be modified by either the county's wetland division or code enforcement.

Stuart said usually there's a monitoring requirement of 5 years and he assumed they were still within that 5-year timeframe. He requested that staff find out who's in charge of the monitoring of that.

Horne said the appropriate staff would get back to the board.

Nancy Monahan, 24218 NE Alvis Road, said she travels through that area and her concern had to do with the impact caused by those roads flooding out. She said if they develop that area and add sidewalks to the road area, she wanted to know if that would impact any of the businesses in that area. She echoed Ms. Warner's comments that if development does occur, it should be done properly.

Morris commented that it's sometimes easier to control water runoff on developed land than it is on undeveloped land. She said it sounded like the ponds were failing and would need to be fixed so they don't fail and flood. She explained that with a subdivision application there are rigorous stormwater runoff standards that have to be met. She added that according to county code, there should be no impact from water hitting the road from 8 new houses.

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Kevin Floyd, 17804 NE 164th Circle, Brush Prairie, stated that he lives on land previously owned by Mr. Pederson. Mr. Floyd wanted to know where the current 100-year flood plain is. He referenced his parcel and others on the overhead map and said he wondered if future lots would have to pay extra flood insurance because the additional land that would have to fold into the newly created lots would now fall into a flood plain. He said every square foot of all of that land is hydric soils. Floyd said there was drainage previous to the ponds that was actually put in for agricultural purposes and he wondered if those were now gone and potentially contributing the flooding of the ponds.

Morris noted that they are currently working on their habitat ordinance, which has some new standards about how to build in the flood plain. She said the other questions posed by Mr. Floyd would be addressed at the development review process.

Floyd said the line was drawn right through two ponds and he wanted to know why it was created that way.

Morris asked for clarification about what ponds he was referring to. She said her understanding of the ponds that are flooding—the wetland mitigation ponds—is that they are not on those narrow strips, where Mr. Floyd lives.

Floyd said they're not on the narrow strips, but are on the two major lots (he referenced them on the overhead map). He said it was not surveyed as they see today. It was done either after the creation of the ponds or approval of them and the line now goes right through one or two ponds.

Jackson said he could provide a copy of the current survey that shows the wetlands. He said those were just tax lot lines and do not have legal significance. The ownership is common across.

Morris added that those four lots are not legal lots so they cannot be built on until they are properly divided. She said that Mr. Floyd raised issues that are probably legitimate concerns, but she didn't know whether or not they could be answered at this point in time nor were they questions that need to be answered before they make a decision on a zone change or boundary movement.

Stuart said if they come in with an application for any kind of division of land or actual building applications, then at that time there would be a lot of work on what those divisions would look like and how to protect the resources in that area.

Floyd asked if that would include access to utilities.

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Stuart said yes.

Floyd said utilities that currently run along 164th Circle, on the south side of where his lot is, aren't part of the picture as far as the proposed development when they sought signatures for the west side development of Mud Creek. He asked for verification about whether that was correct.

Jackson said the developable area is on the west side and would have to be accessed from the west.

Floyd said he believed it was Tom Moss who brought the petition around the neighborhood, but he didn't see anything that specifically described what they wanted to do. He said that to him it wasn't sufficient.

Warner asked about access.

Morris said that was a problem for later when they do the development application. She asked the board what their pleasure was.

Boldt said that for west of Mud Creek he would like to consider one-acre lots, with the condition they go onto sewer, and then for east of Mud Creek he would leave it as is.

Morris asked if he would be willing to say that they need to go on sewer and they cannot build more than eight houses.

Boldt said yes.

Stuart stated that for a rural center, this was an area where one-acre lots fit within the structure of what's around them. He asked for clarification regarding whether the rest of the area would not be built on and possibly donated.

Pederson said that once they site the homes, they would donate the remaining land that's not usable to a trust.

Stuart asked about the area east of Mud Creek.

Pederson said it would stay as it currently is, except one more pond may go in.

Morris referenced what Mr. Pederson had said in terms of the 18 acres he wants to bring into the rural center and that there would only be 8 houses on it.

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Pederson said the petition that went around stated 14 houses. He further explained.

[Further discussion ensued.]

Pederson said there's technically room for 14 houses.

Morris explained that Commissioner Boldt has suggested they expand the rural center to include this with a contract that would require connection to the sewer, and she was suggesting a second provision that would state that no more than 8 houses may be built.

Pederson said he supposed that would be fine.

Morris summarized that they were overturning the Planning Commission and were granting expansion of the rural center to include the requested area and to the west as well; and there would be provisions in the rezone requiring hookup to sewer and restricting the number of new dwelling units to eight.

Stuart had a question of Ms. Warner, whose property is just south. He said that in looking at it, she is surrounded by rural center. He asked her what she thought of that.

Warner said she's not against houses being built, but wanted to see it done properly and doesn't want to see clusters.

Stuart asked Ms. Warner if at some point she would want to be included in a zone change.

Warner said probably because it was likely that would occur in the future anyway.

Morris asked Warner if she was on septic and, if so, did it work well.

Warner responded that she was and it has worked excellent for 27 years. However, she said that since the ponds were built the water comes up fairly close to it.

Morris suggested Warner may want to come into the rural center because if she was in the rural center she could hook up to that sewer. If she's not in the rural center and her septic fails, she would be required to replace it no matter what the cost. She said she thought that was what Stuart was asking her also—if she wanted to be in the rural center.

Warner said that would be fine.

Stuart asked if they could do that.

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Horne said it would require re-notice. He also cautioned the board that the sewer line was a pressurized transmission line and was built primarily to deal with the failure of the Meadowglade area, and was provided by a grant. He further explained that there are only a limited number of people who can get on that line and he thought it had largely been allocated.

Morris suggested Ms. Warner consider coming into the rural center next year.

Jackson said the actual acreage is 8.7 and there was engineering that had to be done to deal with water issues, etc. He said it seemed they were trying to do a design issue by limiting them to eight units when they really don't know all the constraints involved.

Morris asked Mr. Jackson if he wanted them to go to nine.

Jackson said yes.

Stuart said this past year they made a change to allow for variances within a certain percentage – 10%.

Horne added that it's on the last parcel. He explained that you don't take 10% of the whole development, but you take 10% of the last parcel. In this case, 10% of the last parcel would be one-tenth of an acre. If he's short of that, it doesn't help.

Morris said she was willing to go to nine.

There being no further public comment, **MOVED** by Boldt to amend the Planning Commission's recommendation on Docket Item CPZ2005-00062, Hockinson Oaks, extending the Hockinson rural center boundary to the west of Mud Creek as requested by the applicant at a zoning of RC-1, with the provisions that no more than 9 dwelling units shall be built on those parcels, and that they shall all be hooked up to sewer. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 238)

CPZ2005-00073 - TMT The property owners are seeking to redesignate and rezone parcels 157491-000, 157492-001, 157492-002, 157492-003 and a portion of parcel 157494-000 for approximately 14 acres from Public Facility and Urban Medium (R-18) to Mixed Use (MX) located at NE 117th Avenue and NE 71st Street. The Planning Commission recommended **APPROVAL** by a 4 to 0 vote.

Orjiako said the request was to amend the comprehensive plan from an apartment that allows up to 18 units per acres to Mixed Use; and also from Public Facility to Mixed Use. He said the zoning on the public facility is R-18. The total site is approximately 14 acres. The PC is

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recommending approval by a 4 to 0 vote, subject to a rezone agreement that addresses all of the transportation-related issues that were raised.

Lamont Smith, Vice-President, TMT Development, 805 SW Broadway, Portland, Oregon, 97209, expressed appreciation for the board's consideration to approve the request to change the zoning to Mixed Use. Mr. Smith noted that there is a covenant included in the board's packets, which was signed by Mr. Moyer on September 22, agreeing to the certain conditions.

Vanessa Sturgeon provided a brief background of TMT Development.

There being no further public comment, **MOVED** by Boldt to approve Docket Item CPZ2005-00073, TMT. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 239)

Morris referenced Hockinson Oaks and said she believed the PC had recommended a change on the east side on the property that was zoned AG; however, Commissioner Boldt did not support that. He supported leaving it as it is, RC-2.5. *Morris* said they didn't actually specify that in the amendment itself, so she asked if there was any possibility that it could appear they adopted the PC's recommendation with the only change being that the boundary was moved.

Stuart said he thought they wanted R-5 though.

Mabrey said their recommendation only included the area between the straight north/south line and Mud Creek. That's the only area that's currently zoned AG, so what they've done is made it RC-1. He clarified that nothing to the east of that in the RC-2.5 was recommended for change by the PC.

Leanne Bremer, Miller Nash, stated that she represented Mr. Pietz. She said that as far as the agenda, if the board didn't anticipate they would get to Hazel Dell Towne Center, she would like to yield her time to Kimco.

Morris said they intended to work through both cases today.

CPZ2005-00061 - Pietz The property owner is seeking to redesignate and rezone parcels 185705-000 and 185714-000 for approximately 6.66 acres from Urban Medium (R-18) and Urban Low (R1-6) to Urban Medium (OR-18) located at 15001 and 14911 NE 20th Avenue. The Planning Commission recommended **APPROVING** changing the R-18 to OR-18 and **DENY** the request to change the eastern portion zoned R1-5 to OR-18 by a 6 to 0 vote.

Orjiako said the property owner's request was to amend both the comprehensive plan and zoning from Urban Medium (R-18) and Urban Low (R1-6) to Urban Medium (OR-18), which

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allows either office or apartment up to 18 units to an acre. By a 6 to 0 vote, the PC recommended leaving the R1-5 as is and changing the R-18 to OR-18.

Stuart asked if it was in the moratorium area.

Unidentified audience member said yes.

Leanne Bremer, Miller Nash, 500 East Broadway, Vancouver, stated that she represented Ed and Gloria Pietz, the property owners of the two, long pieces of property (referenced the map). She said the properties were east/west in length and were about 3.33 acres each, and were split-zoned right down the middle. She said that zoning district line did not follow property lines, so the northern piece is R-18 and the other half is R-15. Ms. Bremer said their request is to change the comp plan designation and zone to OR-18 for both parcels, east and west. Also, Bremer said there was a small housekeeping item that the Kim's had asked her to point out: the Pietz's purchased the two lots from the Kim's last December and the southern piece is still listed in the Kim's name in the GIS system.

Bremer provided background information about the properties and what's surrounding them. Focusing on the east side, directly to the south there is significant parcelization – the University Park Village, which is a PUD and the northern lots abutting the Pietz's property are less than 3,000 sq.-ft, and that's in the R-1 zone. To the east of the Pietz's property is Mt. Vista; the parcels directly abutting the Pietz's are 8-9,000 sq.-ft lots. She said there's an oddity directly to the north, which is a short plat that was approved by the board in 1990 and has lots that range from an acre to an acre and a half. Bremer said there is a significant critical area running through a portion of the eastern half of the parcels, so there are some development constraints on the east side. Also, she noted that the property is in the Vancouver School District, not Battle Ground. In addition, she said they didn't yet have specific plans for the property, but think OR-18 gives the owner maximum flexibility to do either office or residential; it would be a good parcel for town homes or condominiums. Bremer asserted that if they keep the split the way the PC is recommending, they would have about 3 ½ acres R-18 and 3 ½ single-family 5,000 sq.-ft lots, which they don't feel maximizes the development potential of the property in an efficient way when they're only dealing with 3 ½ acres for the single-family piece. Bremer said the testimony at the Planning Commission focused on the eastern sides of the parcels and the concern was over increased density if they changed it to OR-18 from R-15. She said that R-15 itself allows quite a bit of density. Also, the R-15 zoning district allows for density transfers when you have critical areas, which they do. She said OR-18 wouldn't be vastly in excess of what's allowed under the R-15 zone.

Stuart wanted to know what the problem would be with R-15 then, if they can get that kind of density.

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Bremer said if it's OR-18 the whole site could be developed as one, which would be a lot more efficient for office, for instance. Also, if the owner desired to do residential, they could get more density under the OR-18 versus R-15, and he would like to maximize that potential. *Bremer* said another consideration is that this should be consistent with the comprehensive plan policies, and they believe it also responds to changes in the area such as Legacy Hospital and planned expansion on the WSU-Vancouver campus. She said there's both demand for office and residential and this was the perfect zone to accommodate both.

Craig Thomson, 15004 NE 25th Court, referenced his lot on the overhead map and said it backs up to the parcel in question. Mr. Thompson said he believed his lot was 10,000 sq.-ft. He said the discussion they had at the Planning Commission was that for the bottom half, with the changes of the Legacy project, it made sense to change it from R-18 to OR-18 and he didn't think there was any conflict with that change. As far as the top half, the neighbors in the Mt. Vista area, as well as to the north and south, said it wasn't consistent. Thompson said if you look at a topographical map, there's a ridgeline that goes south and curves to the east, and everything on top of the ridge is zoned either R-15 or R-10; everything on the bottom of the hill to the west and south is all R-18, R-22, OR-18, or OR-22. So it makes a lot of sense to keep it consistent. Thompson noted that he is for the PC's recommendation, which is to rezone the west side from R-18 to OR-18 and keep the top at R-15.

Cathy Person, 15003 NE 25th Court, stated that she is across the street from Mr. Thomson on a 10,000 sq.-ft lot. Ms. Person referenced the ridgeline and stated that about two thirds of the eastern portion was on top and about a third of it was a steep grade. Person said that to her knowledge, the Pietz's owned everything on the western portion. She further explained. She said what they have are very different geographical areas: a very flat area on the bottom, a rough area in the middle, and another flat area on the top. Pearson stated that she's in the Battle Ground School District and would be surprised if they put anything on the top. She said the hill is very steep and no one would likely build a road, so any access to that parcel would come down 150th, which doesn't have any sidewalks and is surrounded by single-family homes.

Drew Stubbs, 15108 NE 26th Court, stated that he resided in the Mt. Vista area and two streets over from the eastern parcel. Mr. Stubbs said that Mt. Vista is an older area with 10,000 sq.-ft lots and there are also a lot of children in the area. He said that with the OR-18 designation they are being asked to accept potential commercial traffic down 150th Street, which has no sidewalks. He said he thought it could be developed as a residential property, 1 to 5, and would like to keep it that way.

Marnie Allen, 2302 NE 149th Street, stated that she lives in University Park Village and her property is located immediately south and adjacent to the Pietz property. Ms. Allen expressed support for the Planning Commission's recommendation. She talked about numerous allowed uses under the OR-18 zoning. She said she and many neighbors view the area as primarily

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residential and don't want to see zoning changed to allow uses that aren't compatible with residential development. Allen referenced county zoning code and the purpose for Office Residential development, as listed in Section 40.220.020 – "OR-18 is intended to provide for multi-family residential and professional office development based on compatibility with adjacent land uses." She said the eastern portion of the property is surrounded by single-family residential development and it wouldn't be compatible to change the zoning and allow for some of those other uses in that area. She further explained. Allen also talked about the county engineer's testimony at the Planning Commission about transportation issues, etc. In closing, Allen said the board needed to look at the big picture and weigh quality of life, compatibility, and land use overall, and not just maximizing development potential for two side-by-side properties.

[Public testimony closed]

Stuart said the compatibility issue for him was a big one. He said that OR-18 provides a lot of flexibility, but doesn't provide any certainty to the people in the area that it would be compatible. Based on that, he agreed with the Planning Commission's recommendation.

Boldt said he agreed. He added that he thought the Planning Commission had done a good job with the applicant and said he would be supporting their recommendation.

Morris agreed with Commissioners *Stuart* and *Boldt*.

There being no further public comment, **MOVED** by *Boldt* to approve Docket Item CPZ2005-00061, *Pietz*, as recommended by the Planning Commission. Commissioners *Morris*, *Boldt*, and *Stuart* voted aye. Motion carried. (See Tape 239)

CPZ2005-00070 - Hazel Dell Towne Center The property owner is seeking to redesignate parcels 145774-000, 145796-000, 145795-000, 145773-000, 145800-000, 145771-000, 145815-000, 145766-000, 145769-000, 145786-000, 145305-000, 145371-000, 145770-000, 145790-000, 145780-000 for approximately 34.8 acres from Mixed Use (C-3) and (CL) to Community Commercial (C-3) and to remove the current rezone covenant. The property is located at 9103 NE Hazel Dell Avenue. Motion to deny the request failed. **The Planning Commission forwarded a recommendation for APPROVAL with the request that their deliberations, discussion and reasoning go along to the Board by a 4 to 2 vote.**

Orjiako briefly presented. He added that they received a draft release of the covenant running with the property that the applicant's were suggesting they include in the proposal.

Steve Horenstein, Miller Nash, 500 East Broadway, Suite 400, Vancouver, representative of Kimco, stated that Kimco did not do the original site plan, but made great efforts to comply with it; however, there are some things they cannot do. As far as staff's suggestion that because

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the original decision was a conditional rezone the conditions cannot be changed, he said they disagreed with that. Mr. Horenstein referenced an email submitted from Bud Van Cleve, Chairman of the NE Hazel Dell Neighborhood Association, which expressed support of the request of a comprehensive plan and zone change. He said that one of the things the rezone covenant requires is a grocery store in the northwest quadrant. He said there are two grocery stores near the site—Safeway to the south and Albertson's to the north—both of which will not be moving, but are remodeling. He said that because of being sandwiched between two grocery stores that are less than two miles apart, it doesn't work. Horenstein stated that on the residential side, they contacted 29 multi-family developers that they could identify and 29 RFP's went out, with only 4 were interested enough to attend a proposer's meeting. Also, Kimco spoke with local developers and they couldn't get one multi-family developer to bite. He further explained. Horenstein noted that the residential property was all on the north end of the project and the proposal would be to redevelop that with a mix of uses, such as office and retail. As to the concomitant rezone agreement, he believed Mr. Horne would have stated that it shouldn't be released for the entire site, but only the north half of the site; however, Horenstein said he would disagree with that for a couple of reasons: all of the covenant relates to infrastructure, the Target store and things on the south half of the site and that's all up and running so they aren't going to change any of that; and it's one large parcel and is not a phased project so it would be difficult to release for just part of the project. Also, Horenstein said they have a request to extend their vesting time, but as he has thought about it, that's probably an inappropriate request and he thought they needed to do that through a development agreement. He said they would like to take that off the table and ask the board to approve the comprehensive plan and rezone, covenant release and rezone agreement, and also ask to reserve a little bit of time for Mr. Creager for rebuttal.

Morris suggested they listen to the applicant and Mr. Creager's testimony today and leave public testimony open and continue the matter to December 6, 2005. She noted that she would like to have a concomitant rezone that requires a restaurant of certain standard. She told Mr. Horne that unless he could persuade her otherwise, that if the county makes a contract then it can renegotiate a contract.

Kurt Creager, 2500 Main Street, Suite 200, Vancouver, spoke in opposition to the proposed change specifically because of the housing element and potential loss of the 96 units of housing, which the applicant or his predecessor agreed to provide. Mr. Creager said the Housing Authority is owner and managing general partner of Arbor Ridge Assisted Living, which is immediately north of the property, and they also developed and manage, but do not own, Arbor Ridge Senior Housing on Hazel Dell Avenue. He explained that those provide 100 units of affordable housing for low-income seniors. He said they also own Cougar Creek and Willow Creek apartments, which are both within 300 feet of the boundary of this property. He said they have approximately \$50 million worth of real estate in this corridor and they feel the removal of housing could actually have a negative effect. He further explained. As far as the grocery stores,

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he said the Albertson's store was for sale and there was a good chance it would never be remodeled. Mr. Creager said the Housing Authority urged the board to stand to by their original agreement to insert housing and make it a transit-oriented, walkable community that combines both retail and housing in a creative way. He said the applicant has a different motive, which is to maximize their return on investment, and the policy basis for their change isn't defensible. He explained. Creager said his biggest concern was about the quality of life of the people who live at Arbor Ridge Senior Housing and if this was allowed to go forth, he envisioned that property surrounded by a sea of asphalt and entirely commercial development. He urged the board to keep the development partner's shoulder to the wheel and inspire them to perform to their original agreement. Additionally, he said that if Kimco is asking full-blown retail prices for residential property, it just wouldn't work and they would need to lower their profit expectation.

There being no further public comment, **MOVED** by Boldt to continue Docket Item CPZ2005-00078, Hazel Dell Towne Center, to December 6, 2005, in the Commissioners' Hearing Room, Public Service Center, Sixth Floor. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 239)

CPZ2005-00064 – Warman The property owner is seeking to redesignate and rezone parcels 172542-000 and 172556-000 for approximately 45 acres from Agriculture (AG-20) to Rural District (R-5) located at 3620 NE Ingle Road, Vancouver. The Planning Commission recommended **APPROVAL** by a 4 to 2 vote.

Case not heard – carried over to December 6, 2005.

CPZ2005-00065 - Anderson The property owner is seeking to redesignate and rezone parcel 213015-000 for approximately 29.24 acres from Agriculture (AG) to Rural District (R-5) located at 4604 NW 289th Street, Ridgefield. The Planning Commission recommended **DENIAL** by a 4 to 1 vote.

Case not heard – carried over to December 6, 2005.

BOARD OF COUNTY COMMISSIONERS

Betty Sue Morris/s/
Betty Sue Morris, Chair

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Marc Boldt/s/
Marc Boldt, Commissioner

Steve Stuart, Commissioner

ATTEST:

Louise Richards/s
Clerk of the Board

jc/rt